

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 4:24-cv-10057-KMM

BENJAMIN BOE,

Plaintiff,

v.

OFFICER JULIAN GARCIA, *et al.*,

Defendants.

ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon *pro se* Plaintiff's Complaint ("Compl.") (ECF No. 1), Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 3), Motion for Leave to Proceed Under Pseudonym (ECF No. 4), Motion for Referral to Volunteer Attorney Program (ECF No. 5), and Motion for Update (ECF No. 8). The Court referred the matter to the Honorable Marty Fulgueira Elfenbein, United States Magistrate Judge, who issued a Report and Recommendation recommending that the Complaint be DISMISSED WITHOUT PREJUDICE and all pending motions be DENIED AS MOOT. ("R&R") (ECF No. 9). Plaintiff did not file objections to the R&R and the time to do so has passed. As set forth below, the Court ADOPTS the R&R.

This action stems from Plaintiff's Complaint, wherein Plaintiff sues seven Defendants: (1) Officer Julian Garcia of the Islamorada Police Department; (2) Deputy Wardell Hanna of the Monroe County Sheriff's Office; (3) Sergeant Edward Askins of the Islamorada Police Department; (4) Brittany Brown, Records Supervisor of the Monroe County Sheriff's Office; (5) an Unknown FOIA Officer/Records Clerk with the Islamorada Police Department; (6) the Village of Islamorada; and (7) the Monroe County Sheriff's Office. *See generally* Compl. Plaintiff alleges that he recorded an interaction where Defendant Garcia falsely detained him and a companion for

running a stop sign. R&R at 3. What followed was a lengthy saga involving alleged false imprisonment, misconduct from police officers, and coverups of the alleged misconduct—events that were thoroughly summarized by Magistrate Judge Elfenbein in the R&R. *See id.* at 2–6.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). As set forth in the R&R, Magistrate Judge Elfenbein finds that Plaintiff’s Complaint is one long narrative spanning three pages and several time periods. *See* R&R at 11. The Complaint is neither numbered nor limited to a single set of circumstances, weaving together details about a traffic stop, a later FOIA request, the alleged motivations of individual Defendants, alleged policies of institutional Defendants, and Plaintiff’s alleged resultant injuries. *Id.* at 12. Thus, the Complaint is a shotgun pleading because it (1) fails to separate into a different count each cause of action or claim for relief; and (2) asserts multiple claims against multiple Defendants without specifying which Defendant each claim is brought against. *Id.* Magistrate Judge Elfenbein recommends that the Complaint should be dismissed and all other motions should be denied as moot. *Id.* at 13. This Court agrees.

Accordingly, UPON CONSIDERATION of the Complaint, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that:

1. Magistrate Judge Elfenbein’s Report and Recommendation (ECF No. 9) is ADOPTED;
2. The Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE;
3. Plaintiff may amend the Complaint to address the aforementioned deficiencies on or before September 20, 2024;
4. All other motions are DENIED AS MOOT;

5. The Clerk of Court is INSTRUCTED to CLOSE this case.

DONE AND ORDERED in Chambers at Miami, Florida, this 30th day of August, 2024.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record